

EX PARTE OR LATE FILED



Celia Nogales
Director - Federal Relations

December 11, 1998

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
TW-A235-Lobby
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **Ex Parte Statement**
CC Docket 96-115

Dear Ms. Salas:

On Thursday, December 10, 1998, a presentation was made to the FCC by Cynthia Ford, Bell South and Joe LaPorta, Bell Atlantic. Representing the FCC were Carol Matthey, Chief, Policy and Program Planning Division, Bill Agee, Anthony Mastando, Peter Wolfe, and Cecilia Stephens. The presentation was an Overview of Safeguards and Strawman Alternatives and a Draft Proposal for Commission Clarification of Sections 64.2009(a), (c), and (e). A copy of these presentations is attached.

Sincerely,

A handwritten signature in cursive script, appearing to read "Celia Nogales".

Attachment

cc: C. Matthey
B. Agee
P. Wolfe
C. Stephens
A. Mastando

Not at Carol's rock
1/1/99

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Proposal For Commission Clarification of Sections 64.2009(a),(c), and (e)

Sections 64.2009(a) - Flagging

Section 64.2009 (a) states that:

"Telecommunications carriers must develop and implement software that indicates within the first few lines of the first screen of a customer's service record the CPNI approval status and reference the customer's existing services subscriptions."

The Commission should clarify that a telecommunications carrier would comply with Section 64.2009(a) if:

- the carrier's guidelines direct marketing personnel to determine a customer's CPNI approval and service subscription status prior to the initiation of any sales offering premised upon such status and the carrier makes such status information available, either electronically or in some other way, to marketing personnel in a readily accessible manner and an easily understood format. Carriers have the option of electronically maintaining such information as part of the customer's service record or in a centralized database, such as in a database specifically established for such purpose. Carriers who choose to use other than an electronic mechanism must document such in their statement accompanying their officer certification. The documentation must include a description of the process that is being used, the reasons why the carrier chose not to use an electronic mechanism, the estimated costs of providing such electronically, why the carrier feels that its process provides the same protections of CPNI as afforded under Sections 64.2009(a) and the ongoing steps it is taking to insure that the process remains effective.

Sections 64.2009(c)- Electronic Auditing

Section 64.2009(c) states:

"Telecommunications carriers must maintain an electronic audit mechanism that tracks access to customer accounts, including when a customer's record is opened, by whom, and for what purpose. Carriers must maintain these contact histories for a minimum of one year."

The Commission should clarify that Section 64.2009(c) only applies to outbound marketing activities and a telecommunications carrier would comply with Section 64.2009(c) if:

- carriers electronically maintain a file of their marketing campaigns, that use CPNI, which includes a description of: the campaign, the CPNI that was used in the campaign, its date and purpose, and what products and services were offered as part of the campaign. The file must be kept for a minimum of one year.

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Sections 64.2009(e) - Officer Certification

Section 64.2009(c) states:

"A telecommunications carrier must have a corporate officer, as an agent of the carrier, sign a compliance certificate on an annual basis that the officer has personal knowledge that the carrier is in compliance with the rules in this subpart. A statement explaining how the carrier is in compliance with the rules in this subpart must accompany the certificate."

The Commission should clarify that Section 64.2009(c) requires a carrier to certify that:

- an internal compliance oversight function has been established which is responsible for ongoing compliance efforts within the corporation.
- as part of its ongoing effort to ensure compliance, an annual compliance review will be undertaken. Such annual reviews would be documented with the results of such included in the carrier's statement accompanying their officer certification.
- a centralized file of complaints filed with regulatory agencies is maintained as well as documentation of what action was taken by the carrier to investigate the complaint and what were the results of the investigation.
- a variety of overlapping, complementing mechanisms will be used to comply with the Commission rules. A description of such will be included as part of the statement accompanying the officer certification. These mechanisms would include but not be limited to:
 - restricting access to databases that contain CPNI on a need to know basis.
 - development of CPNI related methods and procedures and training modules
 - specifically tailored to an employee's job function.
 - enforcement procedures for code of conduct violations relative to CPNI.
 - description of any electronic and administrative audit mechanisms used by the carrier to record employee access to customer service records.

CPNI COALITION

*Overview of Safeguards and
Strawman Alternatives*

December 10, 1998

CPNI Safeguards

Overview

- Access restrictions not adopted because of costs
- Relies on Use Restrictions & Personnel Training
- Supervisory Review Process
- Officer Certification
- CPNI system requirements
 - First few lines of first screen must have electronic flag indicating subscription level & approval status
 - Electronic Audit Requirement
 - tracks access to customer accounts
 - when record is opened, by whom and purpose
 - retained for at least a year

CPNI System Requirements

Coalition Concerns

- Costs of current regulations outweigh any potential incremental benefit
- Y2K constraints
- Less costly alternatives would meet spirit of FCC goals
 - ensure compliance
 - method of verification should a dispute occur

CPNI System Requirements

Costs

- Based on the extensive record, the enormous costs of the electronic flagging & tracking (system development costs and data processing & storage), do not justify potential incremental benefit
- System Development & Implementation Cost Ranges:
 - Small companies could spend up to \$100/line
 - Large company costs could exceed \$100-\$200M/company
- Data Storage Costs Estimates: MCI estimates \$1B for its systems alone
- Access restrictions did not pass cost/benefit analysis (see FCC Order @ FN 687 - \$100M)

CPNI System Requirements

Y2K Constraints

- All US companies have Y2K compliance as highest priority
- Cannot divert precious resources to implement CPNI safeguards during the Y2K process (E911, NSEP, White House Communications)
- The implementation schedule for any safeguard requiring system changes must reflect not only the current Y2K compliance efforts but also the moratorium on all non-critical system changes (4Q99 - 2Q00)

CPNI System Requirements

Alternatives

- Given BOC experience with CPNI, carriers can establish effective CPNI compliance plans which meet the FCC's goals:
 - ensure compliance
 - method of verification should a dispute occur
- What BOCs do today, depending on the system, what information it contains and who accesses it:
 - limited access restrictions -gatekeepers
 - supervisory reviews -code of business conduct
 - training -flagging for some systems